

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARTIN HAGOPIAN,

Plaintiff,

vs.

Case No. 05-CV-74025
HON. GEORGE CARAM STEEH

DAVID SMITH, et al.,

Defendant.

_____ /

ORDER OVERRULING PLAINTIFF'S OBJECTION (# 66)
AS TO MAGISTRATE JUDGE'S AUGUST 28, 2007
ORDER DENYING APPOINTMENT OF COUNSEL

Plaintiff Martin Hagopian, a Michigan prisoner appearing pro per, filed a "Motion to Appeal" Magistrate Judge Mona Majzoub's August 28, 2007 Order denying Hagopian's now second motion for appointment of counsel in this civil rights case brought under 42 U.S.C. § 1983. Within 10 days after a magistrate judge issues an order deciding a non-dispositive matter, a party may file objections to the order. See Fed. R. Civ. P. 72(a). The court construes Hagopian's motion as an objection, and orders that the objection be resolved without oral argument. E.D. Mich. Local R. 7.1(e)(2). The court shall set aside any portion of the Order that is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a). Once again, Magistrate Judge Majzoub recognized that the appointment of counsel for prisoners proceeding in forma pauperis is within the court's discretion, justified only by exceptional circumstances. Lavado v. Keohane, 992 F.2d 601, 605-606 (6th Cir. 1993); Glover v. Johnson, 75 F.3d 264, 268 (6th Cir. 1996). An abuse of discretion exists only if the reviewing court is left with a definite and firm conviction that a mistake has been made. Bowling v. Pfizer, 102 F.3d 777, 780 (6th Cir. 1996) (quoting Logan v. Dayton Hudson Corp., 865 F.2d 789, 790 (6th Cir.1989)). This court is not left with a definite and firm

conviction that Magistrate Judge Majzoub was mistaken in exercising her discretion and denying Hagopian's second motion for appointment of counsel without prejudice.

Plaintiff's September 6, 2007 "Motion to Appeal," properly construed as an objection to Magistrate Judge Majzoub's August 28, 2007 Order, is hereby OVERRULED.

SO ORDERED.

Dated: September 18, 2007

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on September 18, 2007, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk